

Act on Liability for Oil Pollution Damage

(Act No. 95 of December 27, 1975)

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Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to make clear the liability of shipowner in the case where oil loaded in a ship caused oil pollution damage and to establish a system to insure and secure compensation for oil pollution damage in order to protect the victim of the oil pollution damage as well as to contribute to sound development of marine transportation.

(Definitions)

Article 2 In this Act, the meanings of the terms listed in the following items are as prescribed respectively in those items:

- (i) "Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1992
- (ii) "International Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992
- (ii)-2 "Protocol on Supplementary Fund" means the protocol of 2003 to the International Convention on the Establishment of an International Fund for

Compensation for Oil Pollution Damage, 1992

- (iii) "oil" means the oil such as crude oil, fuel oil, lubricating oil or other oil that does not easily evaporate specified by Cabinet Order;
- (iii)-2 "bunker oil" means the oil, among oil used as fuel for operation of a ship
- (iv) "tanker" means the ship for the carriage by sea of oil in bulk;
- (iv)-2 "general ship" means the ship for the carriage by sea of cargoes and other objects other than passengers or oil in bulk (excluding the ship that is operated by oars or operated mainly by oars);
- (v) "tanker owner" means the shipowner of a tanker (the person registered as the owner of the ship pursuant to the provisions of Article 5, paragraph (1) of the Ship Act (Act No. 46 of 1899) or the provisions of foreign laws and regulations (if there are no persons registered, persons owning the ship); provided, however, for the ship owned by a foreign state, if there is a company or an entity registered as an operator of the ship in that foreign state, the shipowner of a tanker means the company or the entity that is registered as an operator,; the same applies in the following item);
- (v)-2 "owner of a general ship" means the owner of a general ship and the lessee of a general ship;
- (v)-3 "exclusive economic zone" means the exclusive economic zone (prescribed in Article 1, paragraph 1 of the Act on Exclusive Economic Zone and Continental Platforms (Act No.74 of 1996); the same applies in item vii-2 (a) and Article 31) and the water area provided in Article 2 (a) (i) of the Liability Convention in foreign countries that are contracting states of the Convention;
- (v)-4 "oil pollution damage" means tanker oil pollution damage and general ship oil pollution damage;
- (vi) "tanker oil pollution damage" means the following damage or costs:
 - (a) damage caused within the territory (including territorial waters; the same applies in Article 39-5, paragraph (1), item vii-2 (a) and item(ii)) of a contracting state of the Liability Convention or within the exclusive economic zone, etc. by pollution (limited to pollution by the oil loaded as cargoes or by the bunker oil (including the oil that is left in the cargo hold and the other places in the tanker prescribed by Order of the Ministry of Land, Infrastructure, Transport and Tourism and mixture that includes the oil and prescribed by Order of the Ministry of Land, Infrastructure, Transport and Tourism) resulting from the outflow or discharge of oil from a tanker (for the tanker capable of carrying cargo other than oil in bulk, limited to the tanker used for transporting oil in bulk and while the cargo holds have not been cleaned to the degree so that no oil may be left after they were used for transportation of oil in bulk, the tanker used for transportation of cargo other than oil in bulk and the ships navigating

- without any cargo);
- (b) cost required for the reasonable measures taken to prevent or alleviate the damage after an event causing the damage referred to in sub-item (a) occurred and damage incurred as a result of taking those measures;
 - (vii) "cost of preventive measures of damage by tanker owner" means the cost required by a tanker owner to voluntarily take measures prescribed in the preceding sub-item (b) and the damage incurred by the tanker owner as a result of taking those measures;
 - (vii)-2 "general ship oil pollution damage" means the following damage or costs:
 - (a) damage caused by the pollution resulting from the outflow or discharge of the bunker oil from a general ship within Japan's territory or exclusive economic zone;
 - (b) cost that is required for the reasonable measures taken to prevent or alleviate the damage after an event causing the damage referred to in sub-item (a) and damage incurred as a result of taking those measures;
 - (viii) "one unit" means the amount of money equivalent to one Special Drawing Right pursuant to the Special Drawing Right prescribed in Article 3, paragraph (1) of the International Monetary Fund Agreement;
 - (ix) "insurer" means the party who compensates the damage of tanker owner under the contract on compensation for tanker oil pollution damage prescribed in this Act or insure the performance of obligations for damages, or the party who compensates the damage of owner of general ship under the contract on compensation for general ship oil pollution damage prescribed in this Act or insure the performance of obligations for damages and payment of costs;
 - (x) "international fund" means The International Oil Pollution Compensation Fund 1992 prescribed in Article 2, paragraph (1) of the International Fund Convention;
 - (x)-2 "supplementary fund" means the International Oil Pollution Compensation Supplementary Fund, 2003 prescribed in Article 2, paragraph (1) of the Protocol on Supplementary Fund;
 - (xi) "limited claim" means the claim for which the tanker owner or insurer pertaining to the contract for compensation for tanker oil pollution damage prescribed in this Act may limit the liability pursuant to the provisions of this Act;
 - (xii) "beneficial debtor" means the debtor pertaining to the limited claim in the procedure for limitation of liability and other than those who filed a petition for commencement of the procedure for limitation of liability.

Chapter II Liability for Tanker Oil Pollution Damage and Limitation of Liability

(Liability for Tanker Oil Pollution Damage)

Article 3 (1) When tanker oil pollution damage occurs, the owner of the tanker which loaded the oil pertaining to the tanker oil pollution damage is to be responsible for compensation for the damage; provided, however, that this does not apply if the tanker oil pollution damage falls under any of the following items:

- (i) damage was caused by war, civil war or insurrection;
- (ii) damage was caused by an abnormal natural disaster;
- (iii) damage was solely caused in bad faith by the person other than the tanker owner or their employees;
- (iv) damage was solely caused by a defect in the management of beacons or the traffic facilities for traffic control by the state or a public entity.

(2) In the case tanker oil pollution damage has occurred due to the oil loaded in two or more tankers, if it is not possible to determine the tanker that loaded the oil that caused the tanker oil pollution damage, respective tanker owners are responsible for compensation of the damage jointly and severally; provided, however, that this does not apply if the tanker oil pollution damage falls under any of the items of the preceding paragraph.

(3) The tanker owner prescribed in the preceding two paragraphs is to be the tanker owner at the time the first event that caused the tanker oil pollution damage.

(4) In the case referred to in the main clause of paragraph (1) or the main clause of paragraph (2), the persons listed in the following items are not responsible for the damages; provided, however, that this does not apply if the tanker oil pollution damage was intentionally caused by any of these persons or caused by a reckless act by any of these persons knowing that the act may result in a damage:

- (i) an employees of the tanker owner of the tanker;
- (ii) a ship lessee of the tanker and their employees;
- (iii) a charterer of the tanker prescribed in Article 3, paragraph (4) (c) of the Liability Convention (except for the ship lessee), manager or operator and their employees;
- (iv) a person who undertakes rendering of services pertaining to the tanker such as repair of tankers and the person's employees;
- (v) a person who provides services directly relating to life saving or rescue of cargo or the tanker at sea with the consent of the tanker owner or pursuant to the instructions of administrative agencies, and the person's employees;
- (vi) a person who takes measures prescribed in Article 2, item(vi) (b) (excluding the tanker owner of the tanker) and the person's employees.

(5) The provisions set forth in the preceding paragraph does not preclude tanker

owner who compensated the damages from exercising the right to indemnification against a claim by a third party.

(Taking into Consideration concerning Compensation)

Article 4 If the tanker oil pollution damage was caused by the intention or the negligence of the victim, the court may take them into consideration in determining the liability and the sum of the damages.

(Limitation of Liability of Tanker Owners)

Article 5 The tanker owner who is responsible for compensation of the tanker oil pollution damage pursuant to the provisions of Article 3, paragraph (1) or paragraph (2) (including members with unlimited liability of the tanker owner that is a corporation; the same applies hereinafter) may limit the liability concerning the claim based on the tanker oil pollution damage pursuant to the provisions of this Act; provided, however, that this does not apply if the tanker oil pollution damage was intentionally caused by the tanker owner themselves or caused by a reckless act by the tanker owner themselves knowing that the act may result in damage.

(Amount of Limit of Liability)

Article 6 The limit of amount of liability in the case the tanker owner may restrict the liability (referred to as "amount of limit of liability" in Article 14, paragraph (3) and Article 38) is to be the amount of money calculated as prescribed in the following items, pro rata to the tonnage of the tanker:

- (i) for the tanker which is 5,000 tons or less, the amount of money obtained by multiplying one unit by 4,510,000; and
- (ii) for the tanker which exceeds 5,000 tons, the amount of money obtained by adding the amount obtained by multiplying one unit by 631 for the portion of tonnage exceeding 5,000 tons to the amount of the money obtained in the preceding paragraph (in the case the amount exceeds an amount obtained by multiplying one unit by 89,770,000, the amount obtained by multiplying one unit by 89,770,000)

(Calculation of Tonnage of Tanker)

Article 7 The tonnage of the tanker in the preceding Article is to be expressed in the figure calculated pursuant to an example prescribed in Article 4, paragraph (2) of the Act on Tonnage Measurement of Ships (Act No. 40 of 1980) with the word "tons" added (hereinafter referred to as "gross tonnage").

(Scope of Limitation of Liability)

Article 8 The limitation of liability of the tanker owner extends to all the limited

claim resulting from the same accident for each of the relevant tanker against the tanker owner and insurer pertaining to the tanker.

(Ratio of Payment that the Claimant of the Limited Claim Receives)

Article 9 When a tanker owner has limited its liability, the claimant of the limited claim may receive payment pro rata to the ratio of the sum of their limited claim.

(Extinguishment of Right)

Article 10 The right to demand compensation for damages against the tanker owner pursuant to the provisions of Article 3, paragraph (1) or paragraph (2) becomes extinct unless a demand by litigation is filed within 3 years from the date when the tanker oil pollution damage occurred. The same applies when a demand by litigation is not filed within 6 years from the date when the first event causing the tanker oil pollution damage occurred.

(Jurisdiction of Tanker Oil Pollution Claim Case)

Article 11 The lawsuit against the tanker owner pursuant to the provisions of Article 3, paragraph (1) or paragraph (2) belongs to the court of jurisdiction that the Supreme Court provides, if a court of jurisdiction is not prescribed by other laws.

(Effect of Foreign Judgment)

Article 12 (1) The final and binding judgment that a foreign court which has jurisdiction pursuant to Article 9, paragraph (1) of the Liability Convention rendered on a lawsuit for demanding compensation for tanker oil pollution damage is to be effective except for the cases listed in the following items:
(i) in the case the judgment was obtained through fraud; and
(ii) in the case a defendant did not receive service of summons or an order required for the commencement of a lawsuit and was not given a fair opportunity to make a statement.
(2) For the judgment for execution concerning the final and binding judgment prescribed in the preceding paragraph, the phrase "in the case the requirements listed in the respective items of Article 108 of the Code of Civil Procedure are not met" in Article 24, paragraph (3) of the Civil Execution Act (Act No, 4 of 1979) is to read as "when it falls under any of the items of Article 12, paragraph (1) of the Act on Liability for Ship Oil Pollution Damage."

Chapter III Compensation Contract for Tanker Oil Pollution Damage

(Compulsory Conclusion of Compensation Contract)

Article 13 (1) A tanker with Japanese nationality must not carry more than 2,000 tons of oil in bulk unless they have concluded a compensation contract for tanker oil pollution damage (hereinafter simply referred to as "compensation contract") prescribed by this Act.

(2) A tanker other than those prescribed in the preceding paragraph must not enter or leave the ports in Japan or use the mooring facilities in Japan, loaded with more than 2,000 tons of oil in bulk, unless they have concluded a compensation contract.

(Compensation Contract)

Article 14 (1) A compensation contract is to be an insurance contract to compensate the damages incurred by the tanker owner by the performance of its obligations for damages or a contract to secure the performance of its obligations for damages in the case the tanker owner of a tanker (excluding a tanker used for transportation of 2,000 tons or less of oil in bulk) is responsible for compensation of the damage caused by the oil loaded in the tanker.

(2) For the compensation contract, the party who compensates the damage of the tanker owner or the party who secures the performance of the obligations for damages in that contract must be a shipowners' mutual protection and indemnity association, insurance company or other entity specified by Cabinet Order.

(3) For the compensation contract, the amount insured to compensate the damage of the tanker owner in the contract or the amount of damages that secure the performance of obligation for the tanker oil pollution may not be an amount less than the amount of limit of liability of the tanker owner for each tanker pertaining to the contract.

(4) The compensation contract must be the one that can be made ineffective or that can be altered its content limited to the case where it complies with the provisions of Article 7, paragraph (5) of the Liability Convention.

(Claim of Damages against Insurers)

Article 15 (1) When the liability for damages of the tanker owner pursuant to the provisions of Article 3, paragraph (1) or paragraph (2) has occurred, the victim may claim the payment of damages against the insurer, etc.; provided, however, this does not apply if the damage was caused in bad faith by the tanker owner.

(2) In the case referred to in the main clause of the preceding paragraph, the insurer, etc., may duly assert against the victim only with the defense that the tanker owner may insist on to the victim.

(3) The provisions of Article 3, paragraph (5), the main clause of Article 5, and Articles 6 to Articles 10 apply mutatis mutandis to the insurer, etc., who

makes the payment of damages pursuant to the provisions of paragraph (1) of this Article.

(Jurisdiction of the Case on Claim for Damages for Oil Pollution against Insurers)

Article 16 The lawsuit against the insurer, etc., pursuant to the provisions of paragraph (1) of the preceding Article may be filed to the court that has jurisdiction over the lawsuit against the tanker owner pursuant to the provisions of Article 3, paragraph (1) or paragraph (2).

(Certificate of Compensation Contract)

Article 17 (1) If an application is filed by the person who has concluded a compensation contract with the insurer, etc., on a tanker (excluding a taker that has nationality of a foreign state that is a contracting party of the Liability Convention), the Minister of Land, Infrastructure, Transport and Tourism must issue a document certifying that a compensation contract concerning the tanker is concluded.

(2) The person who seeks to file an application under the preceding paragraph must submit a written application that states the name of the ship, the type of compensation contract and other matters prescribed by Order of the Ministry of Land, Infrastructure, Transport and Tourism to the Minister of Land, Infrastructure, Transport and Tourism.

(3) A copy of the compensation contract and a document certifying the tanker's nationality and the gross tonnage must be attached to the written application under the preceding paragraph.

(4) The person who has received the issuance of the document prescribed in paragraph (1) (hereinafter referred to as "certificate of compensation contract" in this Chapter) may have the certificate of compensation contract reissued when it is lost or damaged or when it becomes difficult to discern.

(5) The person who seeks to apply for issuance or reissuance of certificate of compensation contract must pay the fee prescribed by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(6) Beyond what is provided for in each of the preceding paragraphs, the valid period, the matters to be stated in the certificate of compensation contract and other necessary matters for the certificate of compensation contract are prescribed by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Change of Matters Stated on the Certificate of Compensation Contract)

Article 18 (1) If there is any change to the matters stated on the certificate of compensation contract, the person who received issuance of the certificate of

compensation contract must give a notification to the Minister of Land, Infrastructure, Transport and Tourism of the matters pertaining to the change within 15 days from the date of the change; provided, however, this does not apply if the certificate of compensation contract must be returned pursuant to the provisions of the following Article.

- (2) When a notification under the preceding paragraph is made, the Minister of Land, Infrastructure, Transport and Tourism must issue a new certificate of compensation contract to the person who made the notification.
- (3) In the case referred to the preceding paragraph, the person who made the notification in the preceding paragraph must return the compensation contract under paragraph (1) to the Minister of Land, Infrastructure, Transport and Tourism without delay.

(Return of Certificate of Compensation Contract)

Article 19 The person who received issuance of the certificate of compensation contract must return the certificate of compensation contract to the Minister of Land, Infrastructure, Transport and Tourism without delay if the valid period of the certificate of compensation contract expired, if the compensation contract pertaining to the certificate of compensation contract ceased to be effective before expiration of the valid period of the compensation contract, or it no longer conforms to the provisions of Article 14.

(Keeping of the Certificate of Compensation Contract)

- Article 20 (1) A tanker that has Japanese nationality may not be used for transporting more than 2,000 tons of oil in bulk unless they keep the certificate of compensation contract on board.
- (2) A tanker other than those prescribed in the preceding paragraph, must not enter or leave Japanese ports or use the mooring facilities in Japan loaded with more than 2,000 tons of oil in bulk, unless it keeps on board the certificate of compensation contract, a document in the form of the appendix of the Liability Convention issued by a foreign state that is a contracting party to the Liability Convention certifying that a compensation contract concerning the tanker is concluded, or a document issued by a foreign state stating the matters on the certificate of compensation contract prescribed in Article 7, paragraph (12) of the Liability Convention.

(Exclusion from Application)

Article 21 The provisions of this Chapter (except for paragraph (2) of the preceding Article) do not apply to the tanker owned by a foreign state and for which a compensation contract has not been concluded.

Chapter IV International Fund

Section 1 Claim against International Fund

(Claim for Compensation against International Fund by the Victim)

Article 22 The victim may claim to the international fund pursuant to the provisions of the International Fund Convention the compensation prescribed in Article 4, paragraph (1) of the International Fund Convention concerning the amount from tanker oil pollution damage that the victim could not receive.

Article 23 Deleted

(Intervention by International Fund)

Article 24 (1) In the case a lawsuit against the tanker owner pursuant to the provisions of Article 3, paragraph (1) or paragraph (2) or a lawsuit against the insurer, etc., pursuant to Article 15, paragraph (1) is pending, the international fund may participate in the lawsuit as a party.

(2) The provisions of Article 47, paragraph (2) to paragraph (4) of the Code of Civil Procedure apply mutatis mutandis to the case referred to in the preceding paragraph.

(Notice of Pending Lawsuit to International Fund)

Article 25 (1) In the case prescribed in paragraph (1) of the preceding Article, any parties may notify the international fund of the pendency.

(2) The provisions of Article 53, paragraph (3) of the Code of Civil Procedure apply mutatis mutandis to the case referred to in the preceding paragraph.

(Jurisdiction of Lawsuit for Claim against International Fund)

Article 26 (1) The lawsuit against the international fund for claiming compensation prescribed in Article 4, paragraph (1) of the International Fund Convention may be filed to the court which has jurisdiction over the lawsuit against the tanker owner pursuant to the provisions of Article 3, paragraph (1) or paragraph (2) (the court which has jurisdiction over the general venue of the tanker owner if the lawsuit is for claiming compensation only for the cost of preventive measures of damage by tanker owner, or the court which has jurisdiction over the location of the general venue determined by the Supreme Court if there is no such court).

(2) If the case against the tanker owner pursuant to the provisions of Article 3, paragraph (1) or paragraph (2) or the case against the insurer pursuant to the provisions of Article 15, paragraph (1) is pending at the court of the first instance, or if the case of limitation of liability is pending at the court for the same tanker oil pollution damage, the lawsuit in the preceding paragraph is to

be under the jurisdiction of the relevant court.

(Effect of Foreign Judgment)

Article 27 The provisions of Article 12 apply mutatis mutandis to the final and binding judgment rendered by a foreign court having jurisdiction pursuant to the provisions of Article 7, paragraph (1) or paragraph (3) of the International Fund Convention.

Section 2 Contribution to International Fund

(Report of Amount of Specified Oil)

Article 28 (1) Regarding the crude oil or fuel oil specified by Cabinet Order that are unloaded in Japan (hereinafter referred to as "specified oil" in this Section), if the amount of specified oil received by a person (excluding the person who received specified oil from tankers on behalf of another person, but including the person who let another person receive the oil; hereinafter referred to as "oil receiver") from tankers during the previous year (including the specified oil which the oil receiver let another person receive on their behalf; the same applies hereinafter) exceeds 150,000 tons, the oil receiver must report the amount received to the Minister of Land, Infrastructure, Transport and Tourism each year as prescribed by Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(2) In the case there is a person who controls the business activities of the oil receiver during the previous year, if the total amount of specified oil received by the oil receiver from tankers (if there is any specified oil the person who controls the business activities received from tankers, the amount obtained by adding that amount to the total amount) exceeds 150,000 tons, the person who controls the business activities must report the amount received for each oil receiver to the Minister of Land, Infrastructure, Transport and Tourism each year as prescribed by an ordinance of the Ministry of Land, Infrastructure, Transport and Tourism. In this case, the preceding paragraph does not apply to the oil receiver pertaining to the report.

(3) The scope of the person who controls the business activities of the oil receiver prescribed in the preceding paragraph is specified by Cabinet Order.

(Sending of Materials to International Fund)

Article 29 (1) When there a report under paragraph (1) or paragraph (2) of the preceding Article has been made, the Minister of Land, Infrastructure, Transport and Tourism must prepare a document stating the matters prescribed in Article 15, paragraph (2) of the International Fund Convention and send it to international fund pursuant to the provisions of the same

paragraph after having notified the Minister of Economy, Trade and Industry of the content.

- (2) When the Minister of Land, Infrastructure, Transport and Tourism has sent the document prepared pursuant to the provisions of the preceding paragraph to the international fund, must notify oil receiver stated in the document of the amount of specified oil stated in the document pertaining to the oil receiver.

(Contribution to International Fund)

Article 30 An oil receiver pertaining to the specified oil who should report the received amount pursuant to the provisions of Article 28, paragraph (1) or paragraph (2) must pay an annual contribution prescribed in Article 10 of the International Fund Convention to the international fund pursuant to the provisions of Article 12 and Article 13 of the International Fund Convention.

Chapter IV-2 Supplementary Fund

(Claim for Compensation against the Supplementary Fund by the Victim)

Article 30-2 A victim may claim against the supplementary fund, pursuant to the protocol on supplementary fund, the compensation prescribed in Article 4, paragraph (1) of the Protocol for Supplementary Fund for damages and the amount of tanker oil pollution damage that the victim could not receive.

(Application, Mutatis Mutandis)

Article 30-3 The provisions of the preceding chapter (excluding Article 22, Article 23 and Article 28) apply mutatis mutandis to the supplementary fund. In this case, the term "the International Fund Convention " in Article 26, paragraph (1), Article 27 and Article 30 is deemed to be replaced with "Protocol on Supplementary Fund", the term "paragraph (1) of the preceding Article" in Article 25, paragraph (1) is deemed to be replaced with "paragraph 1 of the preceding Article that is applied mutatis mutandis pursuant to Article 30-3", the term "Article 7, paragraph (1) or paragraph (3)" in Article 27 is deemed to be replaced with "Article 7", the term "Article 15, paragraph (2) of the International Fund Convention" in Article 29, paragraph (1) is deemed to be replaced with "Article 15, paragraph (2) of the International Fund Convention pursuant to the provisions of Article 13, paragraph (1) of the Protocol on Supplementary Fund", and the term "Article 12 and Article 13" in Article 30 is deemed to be replaced with "Article 11 and Article 12, paragraph (1)."

Chapter V Procedure for Limitation of Liability

(Jurisdiction of the Case on Limitation of Liability)

Article 31 The case on limitation of liability, if a tanker oil pollution damage occurred in Japan, the case belongs exclusively to the jurisdiction of the district court which has jurisdiction over the place where the tanker oil pollution damage occurred, and if a tanker oil pollution damage occurred in Japanese exclusive economic zone, the case belongs exclusively to the jurisdiction of the district court which has jurisdiction over the general venue of the known claimant of the limited claim or, if there is no such court, belongs exclusively to the jurisdiction of the district court determined by the Supreme Court. If the measures prescribed in Article 2, item (vi) (b) for the purpose of preventing the damage in Japan or in Japanese exclusive economic zone are taken outside of Japan or Japanese exclusive economic zone and the damage did not occur in Japan and in Japanese exclusive economic zone, the case belongs exclusively to the jurisdiction of the district court which has jurisdiction over the location of the general venue of the person who took the measures or, if there is no such court, belongs exclusively to the jurisdiction of the district court determined by the Supreme Court.

(Transfer of the Case on Limitation of Liability)

Article 32 When the court finds it is necessary for avoiding extreme harm or delay, it may transfer, by its authority, the case on limitation of liability to other courts with jurisdiction or, the district court that has jurisdiction over the general venue of the claimant of the limited claim or the court in which the case on limitation of liability caused by the same accident which is pending pursuant to the provisions of Act on Limitation of Shipowner Liability (Act No. 94 of 1975; hereinafter referred to as "Act on Limitation of Liability").

(Intervention of International Fund)

Article 33 The international fund may participate in the procedure of limitation of liability pursuant to the provisions of the Rules of Supreme Court.

(Declarations of Pending Procedure for Limitation of Liability to International Fund)

Article 34 (1) When a procedure for limitation of liability is pending, the person who made a petition, the beneficial debtor, or the person who participated in the procedure for limitation of liability may notify the international fund to that effect.

(2) The declaration pursuant to the preceding paragraph must be made by submitting a document stating the matters listed in respective items of Article 28, paragraph (1) of the Act on Limitation of Liability as applied mutatis mutandis pursuant to Article 38.

(3) The court must serve the document under the preceding paragraph to the

international fund.

Article 35 In the case the international fund participates in the procedure for limitation of liability or the document was served to the international fund pursuant to the provisions of paragraph 3 of the preceding Article, the court, if a change made to the matters listed in any of the items of Article 28, paragraph (1) of the Act on of Limitation of Liability as applied mutatis mutandis pursuant to Article 38, serve the document stating the matters pertaining to the change, and if public notice was issued pursuant to the provisions of Article 31, paragraph (1), Article 85, paragraph (1), or Article 87, paragraph (1) serve the document stating the matters pertaining to the public notice. In this case, the provisions of Article 15 of the Act on Limitation of Liability apply mutatis mutandis.

(Participation of Tanker Owner in Procedure for Limitation of Liability When Tanker Owner Voluntarily Takes Measures to Prevent Damage)

Article 36 (1) If the tanker owner voluntarily takes the measures prescribed in Article 2, item (vi) (b), the tanker owner is deemed to have the limited claim on the cost of preventive measures of damage by tanker owner, and due to this reason may participate in the procedure for limitation of liability.

(2) The provisions of Article 47, paragraph (5), Article 50 (including as applied mutatis mutandis pursuant to Article 51, paragraph (2) of the Act on Limitation of Liability) and Article 53 of the Act on Limitation of Liability apply mutatis mutandis to the case referred to in the preceding paragraph.

(Suspension of Lawsuit Proceedings)

Article 37 (1) In the case a notification of the filing of proofs of limited claims was made pursuant to the provisions of Article 47, paragraph (5) of the Act on Limitation of Liability as applied mutatis mutandis pursuant to Article 38, if the lawsuit is pending between the claimant of the claim and the applicant or the beneficial debtor, the court may order suspension of the lawsuit proceedings by the petition of the plaintiff or by the court's own authority in the case the international fund participates in the lawsuit or has received the notice under Article 25, paragraph (1) pertaining to the lawsuit, or by the petition of the plaintiff in other cases.

(2) In the case the notification referred to in the preceding paragraph or the notification pursuant to Article 47, paragraph (5) of the Act on Limitation of Liability as applied mutatis mutandis pursuant to paragraph (2) of the preceding Article is made, if the lawsuit pertaining to the claim against the international fund claiming compensation prescribed in Article 4, paragraph (1) of the International Fund Convention is pending, the court may by its

authority order suspension of the lawsuit proceedings.

(3) In the case referred to in paragraph (1), if suspension of lawsuit proceedings is ordered by the petition of the plaintiff, the court may revoke the ruling of the suspension.

(Intervention of Supplementary Fund)

Article 37-2 The provisions of Article 33 to Article 35 apply mutatis mutandis to the supplementary fund. In this case, the term "paragraph (3) of the preceding Article" in Article 35 is deemed to be replaced with "paragraph 3 of the preceding Article as applied mutatis mutandis pursuant to Article 37-2", the term "Article 25, paragraph (1)" in paragraph (1) of the preceding Article is deemed to be replaced with "Article 25, paragraph (1) as applied mutatis mutandis pursuant to Article 30-3", and the term "International Fund Convention" in paragraph 2 of the same Article is deemed to be replaced with "Protocol on Supplementary Fund."

(Mutatis Mutandis Application of the Act on Limitation of Liability)

Article 38 The provisions of Chapter III of the Act on Limitation of Liability (excluding Article 9, Article 10, Article 16, Section 4, Article 54 and Article 64) apply mutatis mutandis to the procedure for limitation of liability pertaining to the tanker oil pollution damage as prescribed by this Act. In this case, the words and phrases shown in the middle column of the following Table out of the provisions of the Act on Limitation of Liability listed in the left-hand column of the same Table are deemed to be replaced with the words and phrases listed in the right-hand column.

Article 13, Article 14, paragraph (1), Article 15, Article 33, and Article 40, paragraph (1)	this Act	this Act as applied mutatis mutandis pursuant to Article 38 of the Act on Liability for Oil Pollution Damage
Article 17, paragraph (1)	shipowner, etc., rescuer, or employee, etc.	tanker owner (including member with unlimited liability of tanker owner that is a corporation) or insurer, etc.

Article 18	the amount of limited claim (excluding the interest after the accident, or damages due to nonperformance or claim for penalty; the same applies in Article 25, item (ii)) is that in Article 7, paragraph (1), paragraph (3) or paragraph (5)	the amount of limited claim is that in Article 6 of the Act on Liability for Oil Pollution Damage
Article 19, paragraph (1)	the money and the money calculated by multiplying the rate of 6% per annum for the period from the date of accident to the date of deposit (in the case a contract on commission of deposit is concluded pursuant to the provisions of paragraph (1) of the following Article, the date of notification pursuant to the same paragraph; the same applies in the following paragraph)	money
Article 19, paragraph (2)	the date of deposit	the date of deposit (in the case a contract on commission of deposit is concluded pursuant to the provisions of paragraph (1) of the following Article, the date of notification pursuant to the same paragraph)
Article 28, paragraph (1), item (iv)	ship, rescue ship, or the rescuer	tanker
Article 30, paragraph (1)	the amount of limit of liability or date of the accident	the amount of limit of liability
	the money and the money calculated by multiplying the rate of 6% per annum for the period from the date of accident to the date of deposit (in the case a contract on commission of deposit is concluded pursuant to the provisions of Article 20, paragraph (1) as applied mutatis mutandis pursuant to the following Article, the date of notification under the same paragraph) or the money that should be increased by multiplying the rate of 6% per annum prescribed in Article 19, paragraph (1)	money

Article 30, paragraph (2)	"the date of deposit..." in Article 19, paragraph (2)	"the date of deposit..." in Article 19, paragraph (2) as applied mutatis mutandis pursuant to Article 38 of the Act on Liability for Oil Pollution Damage following the deemed replacement of terms
	the date of deposit of	the date of deposit based on the ruling pursuant to (as applied mutatis mutandis pursuant to Article 30, paragraph (2)
Article 47, paragraph (1)	limited claim (as for the interest and the damages due to nonperformance or the claim for penalty, limited to those that accrued by the date of the commencement of the period for investigation of limited claim; hereinafter the same applies in this Chapter)	limited claim
Article 48, paragraph (2)	the Act on Liability for Oil Pollution Damage	this Act
	the same Act	the Act on Liability for Oil Pollution Damage
Article 57	and when it is a limited claim, the content and the distinction between the claim on the damage to the person and the damage to the property	and if it is a limited claim, the content
Article 60	the content and the distinction between the claim on the damage to the person and the damage to the property	the content
Article 61, paragraph (2)	the content and the distinction between the claim on the damage to the person and the damage to the property	the content

Article 66, paragraph (1)	lawsuit outside proceedings	the lawsuit between the claimant and the applicant or the beneficiary debtor (hereinafter referred to as "lawsuit outside proceedings")
Article 70, paragraph (2)	the matters in accordance with the distinction between the claim on the damage to the person and the damage to the property	the matters

(Rules of Supreme Court)

Article 39 Beyond what is provided for in this Act, the necessary matters concerning the procedure for limitation of liability are prescribed by the Rules of Supreme Court.

Chapter VI Liability for General Ship Oil Pollution Damage and Limitation of Liability

(Liability for General Ship Oil Pollution Damage)

Article 39-2 (1) When a general ship oil pollution damage has occurred, the owner of general ship of the general ship in which the bunker oil pertaining to the general ship oil pollution damage was loaded is responsible for the compensation of the damage jointly and severally; provided, however, that this does not apply if the general ship oil pollution damage falls under any of the following items:

- (i) damage was caused by war, civil war or insurrection;
- (ii) damage was caused by an abnormal natural disaster;
- (iii) damage was solely caused in bad faith by the person other than the owner of the general ship or their employees.
- (iv) damage was solely caused by a defect in the management of the beacons or the traffic facilities for traffic control by the state or a public entity.

(2) The provisions of Article 3, paragraph (2) and paragraph (3), and Article 4 apply mutatis mutandis to the compensation for the general ship oil pollution damage. In this case, the terms "in the tankers " and "oil" in Article 3, paragraph (2) are deemed to be respectively replaced with "in the general ship" and "bunker oil", and the term "tanker owner" in the same paragraph and paragraph (3) of the same Article is deemed to be replaced with "owner of the general ship."

(Limitation of Liability of Owner of the General Ship)

Article 39-3 The limitation of liability pertaining to the claim based on the

general ship oil pollution damage for which owner of the general ship (including members with unlimited liability of the owner of the general ship that is a corporation) is responsible pursuant to the provisions of Article 3, paragraph (2) as applied mutatis mutandis pursuant to paragraph (1) and (2) of the preceding Article is as prescribed in the Act on Limitation of Liability.

Chapter VII Contract on Compensation for General Ship Oil Pollution Damage

(Compulsory Conclusion of Contract on Compensation)

Article 39-4 (1) A general ship that has Japanese nationality (limited to the ship with the gross tonnage of 100 tons or more; hereinafter the same applies in this Chapter) must not engage in international voyages (meaning the voyages between a port in Japan and a port in a region other than Japan; the same applies hereinafter) unless they have concluded a compensation contract for general ship oil pollution damage (hereinafter simply referred to as "compensation contract" in this Chapter) prescribed in this Act.

(2) A general ship other than the general ship prescribed in the preceding paragraph must not enter the ports in Japan (including the Tokyo Bay, the Ise Bay (including the sea area adjacent to the entrance of the Ise Bay, and the Mikawa Bay), the Seto Inland Sea and other sea areas prescribed by Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism (hereinafter referred to as "designated sea area" in this paragraph and Article 41-2, paragraph (1); the same applies in Article 39-7, paragraph (2)) (including entrance to the designated sea area; the same applies in the same paragraph), leave the ports in Japan (including leaving the designated sea area; the same applies in the same paragraph) or use the mooring facilities in Japan unless they have concluded a compensation contract.

(Compensation Contract)

Article 39-5 (1) A compensation contract is to be an insurance contract that compensates any of the following damage or a contract to secure the performance of its obligations for damages and payment of costs:

- (i) In the case owner of general ship of a general ship is responsible for compensation of general ship oil pollution damage by the bunker oil loaded in the general ship, the damage incurred by the owner of general ship by performance of the obligations for compensation of the damage;
- (ii) In the case a general ship is left abandoned in the territory of Japan by the reasons such as stranding, sinking, or other reasons, the damage incurred by the owner of the general ship by the payment of the cost for removing the general ship or taking other measures when they are responsible for the

performance of them pursuant to the provisions of the Port and Harbour Act (Act No. 218 of 1950) or other laws and regulations.

- (2) For the compensation contract, the party who compensates the damage of the owner of general ship or the party who secures the performance of the obligations for damages in that contract must be the shipowners' mutual protection and indemnity association, insurance company or other entity specified by Cabinet Order.
- (3) For the compensation contract, the amount of insurance for compensating the damage of the owner of general ship listed in paragraph (1), item (i) (the damage to the owner of general ship other than that listed in the respective items of the paragraph may be included) or the amount for which the performance of the obligations of damages is secured must not be less than the amount of limit of liability in the case where the owner of general ship can limit the liability pursuant to the provisions of Article 3, paragraph (1) of the Act on Limitation of Liability for each general ship pertaining to the contract (hereinafter referred to as "amount of limit of liability" in this Article) and the amount of insurance for compensating the damage of the owner of general ship listed in paragraph (1), item (ii) or the amount for which the payment of cost required for removing the general ship or taking other measures is secured must not be less than the amount equivalent to the amount of limit of liability for each general ship pertaining to the contract.
- (4) Notwithstanding the provisions of paragraph (1) and the preceding paragraph, the compensation contract pertaining to a general ship that is not required to use bunker oil for its navigation is to be an insurance contract that compensates the damage listed in paragraph (1), item (ii) or a contract that secures the payment of the cost, and the amount of insurance for compensating the damage of owner of general ship listed in the item or the amount for which the payment of cost required for removing the general ship or taking other measures is secured must not be less than the amount equivalent to the amount of limit of liability for each general ship pertaining to the contract.

(Application, Mutatis Mutandis)

Article 39-6 The provisions of Articles 17 through 19 apply mutatis mutandis to the compensation contract pertaining to a general ship. In this case, the term "a tanker (excluding the tanker that has nationality of a foreign state that is a contracting party to the Liability Convention)" in Article 17, paragraph (1) is deemed to be replaced with "general ship", the term "the following Article" in Article 18, paragraph (1) is deemed to be replaced with "the following Article as applied mutatis mutandis pursuant to Article 39-6" and the term "Article 14" in Article 19 is deemed to be replaced with "the preceding Article."

(Keeping a Document Equivalent to Certificate of Compensation Contract)

Article 39-7 (1) A general ship with Japanese nationality must not be engaged in international voyages unless they keep on board a document equivalent to a certificate of compensation contract prescribed in Article 17, paragraph (4) as applied mutatis mutandis pursuant to the preceding Article.

(2) A general ship other than those prescribed in the preceding paragraph may not enter or leave Japanese ports or use the mooring facilities in Japan unless it keeps on board a document equivalent to the certificate of compensation contract prescribed in Article 17, paragraph (4) as applied mutatis mutandis pursuant to the preceding Article.

(3) Notwithstanding the provisions of the preceding two paragraphs, if the compensation contract is concluded with a party designated by the Minister of Land, Infrastructure, Transport and Tourism as an insurer that has the financial resource and credit required to compensate the damage of owner of general ship or secure the performance of the obligation for damages and the payment of the cost, the document of equivalent to the certificate of compensation contract prescribed in the preceding two paragraphs may be substituted with a copy of the compensation contract or other document proving the conclusion of compensation contract prescribed by Order of the Minister of Land, Infrastructure, Transport and Tourism.

(Exclusions)

Article 39-8 The provisions of this Chapter do not apply to a general ship owned by a foreign state.

Chapter VIII Miscellaneous Provisions

(Maritime Liens)

Article 40 (1) The claimant of the limited claim pertaining to tanker oil pollution damage has maritime lien on the ship pertaining to the accident, its equipment and freight charges that have not been received.

(2) The lien under the preceding paragraph is next in order of precedence to the lien in Article 842, item (viii) of the Commercial Code (Act No. 48 of 1899).

(3) The provisions of Article 843, the main clause of Article 844, paragraph (2) and paragraph (3), Article 845, Article 846, Article 847, paragraph (1), and Article 849 of the Commercial Code apply mutatis mutandis to the lien under paragraph (1).

(4) In the case there was a ruling of decision on the commencement of the procedure for limitation of liability before the extinction of the lien under paragraph (1), if a ruling to revoke the ruling or a ruling to repeal the procedure of the limitation of liability becomes final and binding, the lien

under paragraph (1) becomes extinct one year after the finalization of the ruling notwithstanding the provisions of Article 847, paragraph (1) of the Commercial Code.

(Effect of Establishment of Fund in a Foreign Country that is a Contracting State)

Article 41 (1) In the case a fund is formed pursuant to the provisions of Article 5 of the Liability Convention in a foreign country that is a contracting state of the Liability Convention, the claimant of the limited claim pertaining to tanker oil pollution damage may not exercise its right on the assets of the tanker owner or insurer other than the fund for the limited claim which may receive payment from the fund.

(2) The provisions of Article 34 to Article 36 of the Act on Limitation of Liability apply *mutatis mutandis* to the case referred to in the preceding paragraph.

(Information about Compensation Contract)

Article 41-2 (1) The master of the specified ship (meaning a tanker carrying more than 2,000 tons of oil in bulk or the general ship with the gross tonnage of 100 tons or more; hereinafter the same applies in this Chapter and Article 48, item (vi)) which seeks to enter a port in Japan (for the general ship, including the entrance to the specified sea area; the same applies hereinafter) from a port in a region other than Japan must notify the Minister of Land, Infrastructure, Transport and Tourism in advance of the name of the specified ship, the port of registry, the existence or non-existence of the compensation contract for tanker oil pollution damage or compensation contract for general ship oil pollution damage prescribed in this Act pertaining to the specified ship (hereinafter simply referred to as "compensation contract" in this Chapter) and other matters prescribed in Order of the Ministry of Land, Infrastructure, Transport and Tourism (hereinafter referred to as "information about compensation contract"). The same applies when the master seeks to change the information about compensation contract that was notified.

(2) The notification that the master must make pursuant to the provisions of the preceding paragraph may be made by the tanker owner or owner of general ship (hereinafter simply referred to as "shipowner" in this Chapter), or the master or an agent of shipowner of the specified ship.

(3) The master of the specified ship that entered a port in Japan from a port in a region other than Japan under unavoidable circumstances prescribed in Order of the Ministry of Land, Infrastructure, Transport and Tourism such as foul weather, distress or other reasons without notifying the information about compensation contract in advance must notify the Minister of Land, Infrastructure, Transport and Tourism of the information about compensation

contract immediately after the entrance to the port, pursuant to the provisions of Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Report and Inspection)

Article 42 (1) To the extent necessary for the enforcement of this Act, the Minister of Land, Infrastructure, Transport and Tourism may have the master of the specified ship in the port or in the mooring facilities in Japan to report on compensation contract pertaining to the specified ship, or have the Ministry's employees enter the specified ship and inspect the documents or the other objects prescribed in Article 17, paragraph (1), Article 20, paragraph (2), or respective paragraphs of Article 39-7, or have them ask questions to the persons concerned.

(2) The employees who conduct on-site inspection pursuant to the provisions of the preceding paragraph must carry an identification card certifying their status and present it to the persons concerned.

(3) The authority to conduct on-site inspection pursuant to the provisions of paragraph (1) must not be construed as being vested for criminal investigation.

(Order to Conclude a Compensation Contract)

Article 42-2 (1) If it is found as a result of the collection of the report or of the on-site inspection pursuant to the provisions of paragraph (1) of the preceding Article that there is a fact of violation of any of the provisions of Article 13 or Article 20, or Article 39-4 or Article 39-7, the Minister of Land, Infrastructure, Transport and Tourism may order the master or the shipowner of the specified ship to conclude a compensation contract or take other measures to rectify the violation.

(2) In the case referred to in the preceding paragraph, the Minister of Land, Infrastructure, Transport and Tourism, when the Minister finds it necessary, may order the suspension of navigation of the specified ship until a measure for rectifying the violation under the paragraph has been taken.

(3) The Minister of Land, Infrastructure, Transport and Tourism must immediately rescind the disposition when it is found that the fact prescribed in paragraph (1) does not exist anymore concerning the specified ship pertaining the disposition pursuant to the preceding paragraph.

(Exclusions)

Article 43 The provisions of this Act do not apply to a tanker or a general ship for official use.

(Responsibility)

Article 43-2 The Minister of Land, Infrastructure, Transport and Tourism must

make efforts to secure adequate performance of international agreements and provide appropriate information to the people concerned with respect to the oil pollution damage, for the purpose of improving the care of the victims of the oil pollution damage.

(Delegation of Authority)

Article 44 The matters that belong to the authority of the Minister of Land, Infrastructure, Transport and Tourism pursuant to the provisions of this Act may be delegated to the Director of the District Transport Bureau as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism (including the Director of Transport Administration Department).

Chapter IX Penal Provisions

Article 45 (1) If the administrator appointed pursuant to the provisions of Article 27 of the Act of Limitation of Liability as applied mutatis mutandis pursuant to Article 38, or the agent of the administrator appointed pursuant to the provisions of Article 43, paragraph (1) of the Act of Limitation of Liability as applied mutatis mutandis pursuant to Article 38 has accepted, demanded, or promised a bribe in connection with their duties, they are punished by imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen.

(2) In the case referred to in the preceding paragraph, the bribe accepted will be confiscated. When the whole or a part of the bribe cannot be confiscated, an equivalent sum of money is to be collected.

Article 46 A person who has given, offered or promised a bribe prescribed in paragraph (1) of the preceding Article is punished by imprisonment with work for not more than 3 years or a fine of not more than 1,000,000 yen.

Article 47 A person who falls under any of the following items is punished by imprisonment with work for not more than 1 year or a fine of not more than 500,000 yen:

(i) a person who has violated the provisions of Article 13, paragraph (1) or Article 39-4, paragraph (1);

(ii) a person who has performed an act that may violate the provisions of Article 13, paragraph (2) or Article 39-4, paragraph (2);

(iii) a person who has received issuance or reissuance of the document prescribed in Article 17, paragraph (1) by a deception or other wrongful means (including the cases as applied mutatis mutandis pursuant to Article 39-6),

- (iv) a person who has been requested to make a report or submit a document pursuant to the provisions of Article 40, paragraph (2) of the Act of Limitation of Liability as applied mutatis mutandis pursuant to Article 38, but has not made the report or submitted the document, or has made a false report or submitted a false document;
- (v) a person who has violated the order pursuant to the provisions of Article 42-2, paragraph (2).

Article 48 A person who falls under any of the following items is punished by a fine of not more than 300,000 yen:

- (i) a person who has violated the provisions of Article 19 (including as applied mutatis mutandis pursuant to Article 39-6);
- (ii) a person who has violated the provisions of Article 20, paragraph (1) or Article 39-7, paragraph (1);
- (iii) a person who has performed an act that may violate the provisions of Article 20, paragraph (2) or Article 39-7, paragraph (2);
- (iv) a person who has not made a report pursuant to the provisions of Article 28, paragraph (1) or paragraph (2) or has made a false report;
- (v) a master who has entered a port without making a report pursuant to the provisions of Article 41-2 paragraph(1) or by making a false report
- (vi) a person who has made a false notification in the event of making a notification pursuant to the provisions of Article 41-2, paragraph (2) (limited to the case the specified ship entered a port);
- (vii) a master who has not made a report pursuant to the provisions of Article 41-2, paragraph (3) or has made a false report;
- (viii) a person who has not made a report pursuant to the provisions of Article 42, paragraph (1) or has made a false report; or
- (ix) a person who has refused, interfered with or evaded the inspection pursuant to the provisions of Article 42, paragraph (1) or has not made a statement or has made a false statement to questions.

Article 49 When a representative of corporation, an agent, an employee or any other worker of a corporation or an individual in connection with the business of the corporation or individual has performed an act in violation of the preceding two Articles, not only the offender is punished but also the corporation or individual is punished by the fine prescribed in the preceding two Articles.

Article 50 A person who falls under any of the following items is punished by a civil fine of not more than 200,000 yen:

- (i) a person who has not made a notification pursuant to the provisions of

- Article 18, paragraph (1) (including as applied mutatis mutandis pursuant to Article 39-6) or made a false notification;
- (ii) a person who has violated the provisions of Article 18, paragraph (3) (including as applied mutatis mutandis pursuant to Article 39-6).